

Crime Laboratory Commission Meeting

September 23, 2009

Department of Attorney General

150 South Main Street

Providence, RI

3rd Floor Conference Room

10:00 a.m.

In attendance were Gerald J. Coyne, Deputy Attorney General, Rhode Island Department of Attorney General; Christopher Cotta, Rhode Island Department of Attorney General; Director Dennis Hilliard, Rhode Island State Crime Laboratory; Dean Ronald Jordan, University of Rhode Island; Dennis Pincince, Rhode Island State Police; Chief George Kelley, RIPCA; Clay Choquette; Nancy Haley.

I. INTRODUCTION

A. Welcome to Commission Members

Deputy Attorney General Coyne on behalf of the Attorney General welcomed Commission members and called the meeting to order at 10:15 a.m.

B. Approve Minutes of April 9, 2009

The April 9, 2009 minutes were reviewed by all members, with Chief Kelley making a motion to approve the minutes and Nancy Haley

seconding the motion. All members being in favor, the minutes of April 9, 2009 were approved.

II. FUNDING

A. Budget FY2009

Director Hilliard distributed a package to Commission Members, which included budget information. After receiving a letter from Chris Cotta stating \$11,250 was to be cut out of the budget, Director Hilliard felt they were in deficit of approximately \$11,000. The exact amount has not been determined due to inaccuracies in charging FY10 salaries to the FY09 budget.

The Crime Laboratory was given \$675,000 for FY09 with a carryover of approximately \$34,000; leaving approximately \$709,000 for the FY09 budget. After the \$11,250 cut it became approximately \$697,800; with \$709,000 being what was actually spent. Director Hilliard recommended that the deficit be taken from the FY10 budget.

a. Coverdell Grant – FY08

Director Hilliard spoke regarding the year that runs from October 1 to September 30, 2009. That money was programmed for the Quality Control Officer position. The majority of that funding paid for salary and benefits. We did have to cover some of the expenses in the FY09 budget allocation, which amounted to approximately \$10,000. Director Hilliard expected the entire amount to be spent by the end of September 2009.

B. Budget FY2010

Director Hilliard stated the amount requested for the FY10 budget was \$828,546. The Governor's recommendation was \$675,000, which was allocated to the Department of Health budget. Director Hilliard inquired to Representative Ken Carter as to why that happened and he stated that was how Michael O'Keefe wrote the budget. Bob Weygand then spoke with Representative Costantino who stated no one had gotten back to him so it was written into the Department of Health budget.

Dean Jordan stated Bob Weygand felt after speaking with Representative Costantino, that as a Commission we should have done more. As I understood it to be, Director Hilliard testified at something and Dr. Gifford was also there and briefly talked about a consolidation plan. That is what Representative Costantino was talking about.

Director Hilliard didn't think he was the point person on this, thinking it was to be Dr. Gifford and Rosemary Booth Gallogly and they would get back to the AG's office and work it out. Doctor Gifford has been extremely busy regarding health issues faced by this state at the moment.

Deputy Attorney General Coyne stated the danger in dealing with the Department of Health is DOH has many roles, one of them is regulatory, one is public health and if there were a public health crisis, Dr. Gifford is expected to make that his priority.

Nancy Haley mentioned in working in the Health Department for thirty years she felt the Forensic Program is considered the bottom of their responsibilities. It was something that they got into reluctantly.

Dean Jordan stated where we are today we have to be proactive in where we are going to go from here. When we met with the Health Department, they made it clear that they could get into the details of each line item. Dean Jordan felt that is something the Commission is in control of; however, whether we advocate it to Health or not is up to this Commission.

Director Hilliard spoke regarding the allocation for the Crime Lab was \$675,000; however, when Director Hilliard spoke with the Department of Health, he was told that they were going to take a 10% reduction per order of the Department of Administration Director Gary Sasse. Director Hilliard was told the Crime Laboratory is considered to be “Contracted Services” and those items need to be reduced by 10%. That brought the total allocated to the Crime Laboratory to \$607,500.

Director Hilliard questioned if departments would send all their requests to the Department of Health and then Health would send

them down to the Crime Lab? In Director Hilliard's opinion that is the way a contracted service works.

Director Hilliard mentioned during the meeting with the Health Department he was told that FY09 was not their responsibility and he needs to go back to the Department of Attorney General. Director Hilliard questioned if the Commission should send a letter to Chairman Costantino with our concerns?

Deputy Attorney General Coyne noted it would be a good idea. It appears many issues have arisen related to this. We tried to talk to them about the amendment. We told them there is a Commission and you would be creating chaos if you put the budget under somebody other than this office.

Nancy Haley thought they were thinking this was a move towards consolidation. By putting all the money together in one spot it was a positive move in that direction.

Clay Choquette wondered if it was budgetary?

Deputy Attorney General Coyne felt it was numbers generated. In dealing with the state budget, the Crime Lab has never been an issue. It comes in under budget or in the state budget to come in \$11,500

over is pretty amazing. It also seems they have disregarded the University. They are creating it like it is any other line item in the budget; just move the budget from here to there. We've been through this before when we recognized the value the University brings to it, but also the commitment the University is willing to make about facilities. Maybe we can remedy it but it's going to take some effort to get that done.

Director Hilliard told Commission members two positions will have to be eliminated, the clerical position and the last hire, which is the Firearms trainee. Also, Bob Hathaway is talking about retirement in May of 2010, perhaps sooner. In that situation Director Hilliard would come to the Commission and recommend stop doing firearm cases.

The Byrne/JAG Grant money in the amount of \$158,845, which will support the Firearms Section and the NIBIN Program, will supplement the FY10 budget. The bulk of it will be spent between June 22nd of this year and June 23rd of next year, for the Firearms training position and funds for the NIBIN Technician will be carried over. Director Hilliard noted this is for one year only. There is a budget sheet that addresses the \$158,000, through September 2010. The University is requesting overhead funds on some of these grants. They were kind enough not to put an overhead on this grant; however, any other grants that we get they will be looking to recover indirect costs, which would be approximately 10%.

Deputy Attorney General Coyne made a motion, subject to further revisions by the Commission that the budget proposed by Director Hilliard for FY10 be approved. Clay Choquette and Nancy Haley both seconded the motion with all Commission members being in favor, the motion passed.

Although it has not been requested by Department of Health as of yet, Director Hilliard did a proposed FY11 budget, which he brought for Commission members to review. In the proposal the clerical position has been changed to the title of Scientific Research Grant Assistant. Due to the fact that all our funding is grant funded, Director Hilliard felt it was much more relative to what the job entails. It is not only a clerical position but it requires some understanding of crime scene background, if you had courses in Science that would benefit your ability for this position. Also, it was put back in the budget as a fulltime position.

Dean Jordan felt that the Scientific Research Grant Assistant position would be a problem for personnel reasons. Stating you can put requirements for the job that are over and above what the title is.

Director Hilliard noted if that is the case, it could go back to being a clerk typist; however, it is going to be more than a clerical position.

One of the responsibilities is to review cases making sure the language is correct. We tried it with a person who just had a clerical background and she couldn't comprehend some of the scientific terminology. We need someone with the proper background. If it is a classified position the requirements have to reflect what the job is. It could be part clerical and part administrative; however it needs to be a fulltime position. Cases are getting backed up in being reported out because we don't have someone to do the administrative review. With Quality Assurance it means a text review that has to be done by a person who has a basic knowledge of that skill, whether it's fingerprints, firearms or trace and then someone has to do the administrative review.

Dean Jordan noted the re-accreditation could be in jeopardy if we don't have this kind of personnel.

Director Hilliard spoke regarding the Technician I position, which will be fully trained in March of next year. Director Hilliard requested bringing them up to a Criminalist I position to give them the status that they need to perform functions. That brings the pay from the low 40's up to the mid 40's. We put the Criminalist I Quality Officer at a fulltime rate equivalent to the Criminalist I position. Director Hilliard has also proposed for the bottom four examiners to be given a merit step increase. In classified positions, they have four or five step increases and as you progress you are automatically bumped up to the next step. URI decided a while ago they would no longer offer

automatic step increases. They are merit increases and funding needs to be available to pay for the merit increases.

In the packages distributed, is a chart and you can see lines 10, 11, and 12 are the salary ranges for the Criminalist I, II and III positions. This is to provide separation between the two Criminalist I positions. The person coming into the position for firearms and the person who has been in the Criminalist I position for approximately three years will now have a solid separation in salary. It also gives us an opportunity to reward our other trace person and our other fingerprint people. The only one who wouldn't be eligible for a merit increase would be our Criminalist II Firearms Examiner. He is already at the top step. The cost of this would be approximately \$10,000 - \$15,000. Right now the budget does not assume any cost increases.

The bottom line on this budget includes increases in health benefits and an additional \$10,000 for re-accreditation. Our certificate of accreditation ends in April 2011. The last onsite visit we had was approximately \$8,000. Director Hilliard took the FY10 numbers and increased them by approximately 10%, making his recommendation for FY11 to be \$868,000.

Deputy Attorney General Coyne made a motion subject to further revision by the Commission, that the proposed FY11 budget submitted by Director Hilliard be approved. Nancy Haley seconded the motion and with all Commission members in favor, the motion

passed.

a. Health Department 10% reduction

Director Hilliard spoke during his FY10 budget review to Commission members of his contact with the Health Department and being told the Crime Lab was having to take a 10% reduction because they are considered a “Contracted Service.”

Chris Cotta felt that during the budgetary process, it needs to be conveyed to the House Finance Committee that the Crime Lab is not a contracted service. He also suggested that Director Hilliard reach out to Rosemary Booth Gallogly to see if they can be exempt from the 10% cut.

Clay Choquette noted for what the Crime Lab does and the services it performs for the state and the law enforcement community, they should not be considered a contracted service.

b. Coverdell Grant – FY09

Director Hilliard spoke regarding the Coverdell Grant in the budget information for FY10.

c. Byrne/JAG Stimulus Grant

Director Hilliard spoke regarding approximately 3 million dollars in stimulus money to be distributed to state and local agencies. We received a solicitation from the Department of Public Safety Grant Administration Office, to submit up to three proposals for funding through that award. Director Hilliard submitted three proposals:

1) To pay for a Quality Assurance Officer and Clerical position, that was not funded;

2) To buy a piece of equipment to help us to store and maintain our digital image records. That was denied also;

3) Maintain our Firearms staff at the bargaining salary for the Firearms trainee and then a partial salary for our current Firearms Examiner and to bring back a NIBIN Technician.

We continue to pay for the fire examiners out of the current budget. We expect to transfer those charges to the Byrne/JAG Grant once it's awarded, which Director Hilliard understands to be sometime in October. They will receive \$158,000 from the Byrne/JAG stimulus monies. They were awarding grants based on creation of job and maintaining jobs and not on buying equipment.

III. LABORATORY STATUS

A. Laboratory Progress Report – January 1 to September 15, 2009

Director Hilliard spoke regarding the Progress Report from 1/1/09 to 9/18/09. Providence Police Department is the top user, with Cranston Police using the Crime Laboratory more often. Overall cases are up 5 ½% from last year.

Deputy Attorney General questioned a Northern Virginia Regional Id.,

which was listed in the report. Although a relatively low number, if questioned we should know what that was for.

Director Hilliard was unsure, it may have been a technical review; however, he would look into it and find out exactly what it was for.

Director Hilliard mentioned testimony is approximately the same as last year. They get numerous requests for lectures to a variety of different agencies. The training offered is free, along with online training.

a. GSR Case Cost Factor

Director Hilliard explained the cost of each GSR case is \$1,200 per case. We require materials to be collected within two hours of the shooting. We will hold the cases for Departments but will not analyze them until they actually need them for trial. It takes approximately one day for the paperwork and the report takes approximately three days.

B. ISO/IEC Accreditation

Director Hilliard spoke regarding ISO Accreditation, which was awarded in 2007. It is a four-year certificate; however, each year we have to prove that we continue to do the work necessary. The first year was a desk audit in which we sent paperwork to them and the application fee, which was \$500.00 for the year. The second year required an on-site visit. Two people came to the Laboratory in April.

They went through lab records, interviewed the staff and came up with three recommendations that we had to meet in order to maintain accreditation. Which we met within thirty days. It cost approximately \$8,000 for this visit. In April of 2010 is another desk audit with the \$500.00 fee. In April 2011 the current certificate expires and we will have to have an on-site inspection and the estimated cost will be approximately \$10,000.

C. Systems Updates

a. NIBIN Update

Director Hilliard spoke regarding NIBIN. We lost our NIBIN Technician due to retirement. Through the RI National Guard we were able to get Michael Ayer assigned to us. At the end of January he came on board, we trained him in the laboratory policies and procedures. In April he was fully trained and ready to do the input. By May 1st we were told he would be reassigned due to budget problems within the National Guard.

We have received letters from the Interim Director of the NIBIN program stating we are not meeting the minimum input, and there was a possibility they were going to take the equipment away. Deputy Attorney General Coyne responded to our regional representative Corey Hill, and let him know our situation. The stimulus money was now a possibility to hire someone. Rather than trying to go through the process of hiring someone else and the retraining process, Director Hilliard approached Michael Ayer who is

now working a 10-hour a day once a week. Since it was a one-year package, they would waive Affirmative Action and since it was a non-union position URI agreed.

a. AFIS Update

i. Cogent maintenance costs

Director Hilliard thanked the Attorney General's office for relieving them of the maintenance cost on this system. If not for that the budget deficit would have been greater. We are probably the largest user of the AFIS System and it's a great benefit.

ii. Homeland Security Funding

Director Hilliard spoke regarding his conversation with David Smith, who is the Executive Director of EMA. Director Hilliard asked if there was any funding available to support the maintenance of the AFIS equipment. Director Smith indicated that he did not have funds, which could be applied to this type of cost; however, he would notify Director Hilliard if any funding opportunities come up that could apply to the Laboratory.

D. Laboratory Personnel

a. Clerical position

In speaking about the proposed FY11 budget, Director Hilliard spoke regarding the issues with the clerical position.

b. Quality Assurance Officer position

Director Hilliard told Commission members the Quality Assurance officer is leaving at the end of October. He will seek to fill this position and if at all possible to make it a fulltime position. This position is critical in maintaining accreditation.

c. Staff Salary Upgrades

During his proposed FY11 budget presentation, Director Hilliard stated he is requesting the bottom four examiners to be given a merit step increase. This cost would be approximately \$10,000 - \$15,000 and would denote a separation in salary for the new hires versus the people who have been on the job.

d. Consolidation effort

Deputy Attorney General Coyne suggested having a meeting between the Attorney General, Dean Jordan, Bob Weygand, Director Hilliard, and whoever Health wants to be there and talk about where the Crime Lab is going in the future and how it fits in to Health. There's a whole host of issues that need to be dealt with. The Commission is here with statutory responsibility and we want to work with them; however, it needs to be addressed.

Deputy Attorney General Coyne made a motion that the Commission request a meeting between the University, the Attorney General in his role as the Commission Chair and the Department of Health to discuss Crime Lab related issues. Dennis Pincince and Nancy Haley seconded the motion. All members being in favor the motion was

approved.

Dean Jordan wanted to mention the new President of the University who he feels is one of the most dynamic leaders that he's run into in many, many years. He's going to be tremendous for the State of Rhode Island and for URI. He's someone that understands forensic science and most likely will be the person that's going to make changes in terms of the budget with URI and the Health Department.

IV. NEW BUSINESS

A. Items from the floor

Clay Choquette felt if the Department of Health isn't interested in having Forensic Science, then maybe it needs to go back before the Legislature and then possibly let it go to the University.

Deputy Attorney General Coyne felt if that's the case, that it was a relatively easy change to make, it's relatively easy to undo.

Dean Jordan asked Director Hilliard about statistics on how effective the Crime Lab is, do we know how important these services are to law enforcement. Do we have letters to back them up, would it change if it went to the Health Department, those are the kinds of questions and concerns that need to be addressed. We need to know what is the best thing for the people of Rhode Island related to the future decisions that have to be made as to where it's located. These things need to be discussed at a high level. This Commission needs to be

proactive.

Chief Kelley has spoken to individual members at the Police Chiefs' Association, and after some discussion it was decided that Director Hilliard would work with Chief Kelley in getting a letter to the membership for their approval.

Nancy Haley felt the timing might be right. The fact that you have a new President, who has a scientific background, this might work out well.

Director Hilliard and Dean Jordan requested the next meeting be scheduled before members leave.

Nancy Haley suggested the meeting take place after the meeting between the Attorney General, URI and the Health Department.

The next meeting of the Crime Lab Commission was scheduled for Thursday, December 3, 2009 at the Attorney General's Department, subject to change, possibly to the RI Crime Laboratory.

Dean Jordan also suggested scheduling the meeting on a regular basis, possibly the first Thursday of the quarter for the Crime Lab Commission to meet.

Deputy Attorney General Coyne noted Terry will generate a list and circulate it to Commission members.

Deputy Attorney General Coyne made a motion to adjourn, with all members being in favor, the meeting was adjourned at 11:25 a.m.

Minutes taken and transcribed by:

Teresa A. Dorrance, Department of Attorney General